

# Yaak School District #24

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February 21, 2005

## Letter of Appeal REQUEST FOR REVIEW

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CC Docket No. 02-6

Re:      Applicant Name:                      Yaak Elementary School District #24  
         Billed Entity Number:                68113  
         Form 471 Application Number:        414325  
         Funding Request Number:            1138377  
         Administrator's Decision on Appeal Dated:      December 27, 2004

To whom it may concern:

Please accept this request for review of the SLD Decision on Appeal dated December 27, 2004 regarding Funding Request Number **1138377**. The Yaak Elementary School District #24 believes the SLD determination failed to properly apply Special Eligibility Conditions and relies on dated FCC policy interpretations that fail to recognize implementation requirements of satellite Internet service providers.

First, the SLD relies on a description in the list of eligible products implementing **47 C.F.R. §§ 54.502, 54.503** providing that a satellite dish may only be recognized as an eligible component when leased as a component of an eligible service. In response to our request for satellite Internet service, only two service providers bid and neither offered to lease any of the components required by the service. The eligible products list should be revised to include the purchase of these components when used in connection with satellite Internet service. In its current form, it does not reflect the requirements of satellite Internet service providers to implement their service. Further, when requested to provide a lease agreement proposal for the components, both service providers merely prorated the purchase price over a 12-month "lease" period; one vendor required a "lease-to-purchase", which is prohibited by guidelines; both vendors required a multi-year lease commitment contract. In addition, the FCC stipulates that (1) cost must play a predominant factor in both service provider and service or equipment selection; (2) the eligible entity must pay all non-discounted costs. In our case, purchasing satellite equipment for internet connection services provided the only financially feasible and fiscally responsible solution, both in terms of federal funding and non-discounted costs.

e.g.,

### COST PER YEAR

Internet Access for 10 users

	<u>OPTION 1</u>	<u>OPTION 2</u>	<u>OPTION 3</u>	<u>OPTION 4</u>
	10 dial-up business phone connections	Purchased satellite system DW4020 .74 meter	Leased satellite DW4020 .74 meter	T1 line
	<u>7,800.00</u>	<u>1,188.00</u> one-time purchase of 1,298.00	<u>2,748.00</u>	<u>27,612</u>
3-YEAR TOTAL	\$ 23,400	\$ 4,862	\$ 8,244	\$ 82,836

As a rural, remote school district that typically operates on a \$ 60,000 total budget per year, we could not afford the non-discounted portion of costs associated with options 1, 3 & 4.

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Second, the SLD failed to consider the application of Special Eligibility Conditions which are sufficient to overcome the interpretation that a satellite dish must be leased. The **Functional Categories for Internal Connections** section provides that:

*"Components used to distribute information from telecommunications or Internet access facilities, all the way to individual classrooms or public areas of a library, are eligible.", and "Interfaces, gateways, and antennas that are used as Internal Connections to transport telecommunications or Internet Access information all the way to individual classrooms or public areas of a library are eligible." without any lease requirement.*

The **Wireless Components** section provides that:

*"The specific technology employed is not a factor when determining the eligibility of a product or service. For example wireless phone service must meet the same eligibility requirements as landline phone service. For wireless network technology, the radio frequency components such as transmitter and antenna (or satellite dish) are considered to achieve the same functionality as cabling." without any lease requirement.*

Third, the eligible products list fails to apply eligibility tests for components required to implement broadband satellite Internet service and cabled Internet service in the same manner. Both are broadband providers, both having components required to connect the local infrastructure with the Internet, and both sell these connectivity components in connection with their Internet service start-up. Yet the satellite dish is declared ineligible for discount solely because it is purchased and not leased, while a cable modem or DSL CSU/DSU device can be either. The satellite dish cannot be used to transmit or receive anything other than through the Internet service of the provider.

Finally, the application of 47 C.F.R. § 54-504(c)(1) to deny in full this request is inequitable and arbitrary. In its application and request for review, the school district included clear and sufficient documentation and information to establish that the satellite Internet service components could not be leased from the service provider, that each component was essential to implementing the service, and even provided component pricing that could have been used by the SLD to approve for discount those components with which there is no dispute over eligibility: the router, transmit modem and receive modem.

We hope the FCC will consider the current Congressional mandate to provide eligible schools with telecommunications and internet services that take advantage of modern technology, and recognize that FCC guidelines are not broad enough to accommodate many schools who due to their remote locations, are inequitably funded by E-Rate.

Respectfully,



Rebecca Harrison, District Clerk  
Yaak Elementary School